

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)

Federal-State Joint Board on)
Universal Service)

CC Docket No. 96-45

**REPLY COMMENTS OF THE
ASSOCIATION OF COMMUNICATIONS ENTERPRISES**

The Association of Communications Enterprises (“ASCENT”), through undersigned counsel, hereby responds to the comments of other parties on the *Public Notice*, DA 01-1647, published in 66 Fed. Reg. 37963-02 (July 20, 2001), in the above-docketed proceeding. ASCENT agrees with AT&T Corp. (“AT&T”) that “the universal service fund (‘USF’) assessment and recovery mechanism must be competitively neutral”¹ and that in order to accomplish this end, the time lag between the revenue figures utilized and the assessment of USF contributions must be eliminated. However, for the reasons set forth below, ASCENT continues to disagree with AT&T’s assertion that a flat-rated assessment method would facilitate the development of a competitively-neutral recovery mechanism.²

¹ AT&T Refresh the Record Comments, p. 1.

² ASCENT also agrees with AT&T that new entrants “should get the *full* measure of high-cost support that the incumbent had received for the line, regardless of whether the entrant is using entirely its own facilities or providing service via UNEs.” Any policy decision to the contrary would fail to satisfy the competitive neutrality principles of the Telecommunications Act.

ASCENT supports AT&T's position that "the Commission should eliminate, once and for all, the lag between accrual and assessment of universal service obligations."³ In comments and reply comments⁴ responding to a Notice of Proposed Rulemaking, FCC 01-145, released May 8, 2001, ("*NPRM*") geared toward a simplification and streamlining of the present universal service recovery scheme, ASCENT and numerous other commenters noted the need to predicate universal service contributions upon present rather than stale revenue data. As the Commission itself noted, revamping the present system to ensure that "a carrier's assessment amount would be dependent on current collected revenues, rather than historical gross-billed revenues . . . would eliminate concerns about the interval between the reporting of revenues and the assessment of universal service contributions."⁵

One such concern is the detrimental effect of the current backward-looking assessment scheme on carriers with declining revenues. Such carriers find themselves in the unenviable and inequitable position of having to satisfy their federal universal service contribution obligations based upon application of a contribution factor to a revenue figure which is now both inaccurate and artificially high. Thus, carriers with declining revenues pay an effectively higher percentage contribution than their competitors with stable or increasing revenues.⁶

Compounding this inequity, the lag time inherent in the Commission's present

³ Id., p. 2.

⁴ Comments and Reply Comments of ASCENT, June 25, 2001 and July 9, 2001, respectively, Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116.

⁵ *NPRM*, ¶ 23.

⁶ *See, e.g.*, Comments of Iowa Utilities Board, CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116, June 25, 2001 ("the six-month lag is still severely anticompetitive. Carriers with increasing interstate and international revenues obtain an artificial competitive benefit under this system, because they are not obligated to contribute to the USF for six months, when they can spread the recovery of those contributions over a larger revenue base.")

universal service contribution mechanism means that while carriers with declining revenue will pay disproportionately high assessments, new market entrants – including incumbent local exchange companies (“LECs”) which are just beginning to provide intraLATA, in-region long distance in states following receipt of Section 271 approval – as well as those carriers with rapidly increasing revenues, will receive a financial advantage commensurate with their pace of growth by contributing less than their actual collected end-user revenues would otherwise require.

As to the perceived benefits of a flat-fee recovery program, ASCENT’s position remains unchanged that a universal service contribution amount based upon the imposition of a “flat-fee basis, such as a per-line or per-account charge” would not satisfy the Commission’s need for competitive neutrality. Indeed, a “flat-fee” recovery mechanism would penalize carriers which serve primarily small business or non-high end residential customers (or, if the contribution is passed through, their customers); it is thus not consistent with the public interest. As the Commission noted in the *NPRM*, “[t]he amount of the per-line or per-account charge would be the same regardless of the level of interstate revenue or traffic associated with a given line or account.”⁷

A carrier serving small business or non-high end residential customers would likely serve a high number of lines while likely receiving a comparatively small amount of revenue per line.

⁷ *NPRM*, ¶ 25.

Furthermore, as the Commission is aware, vast numbers of carriers are compelled to pass through universal service contribution costs to their customers. In the event of such a pass-through, imposition of a flat-fee contribution factor could result in a small business, such as a barber shop, which makes perhaps one or two long distance calls per month, paying the same per-line fee as a large business customer's line from which long distance calls are placed dozen of times a day. AT&T's support for the position notwithstanding, it is clear that a flat-fee policy would effectively raise the contribution costs associated with each such line or account, discouraging the provision of service to such market segments.⁸

By reason of the foregoing, the Association of Communications Enterprises repeats its support for the calculation of universal service contributions predicated upon current, rather than historical, end user revenues, and the availability of identical levels of high-cost support for new entrants using either own facilities or providing service via UNEs. ASCENT continues to oppose

⁷ Equally unacceptable is AT&T's proposal that "the Commission should require all carriers to pass through a prescribed USF contribution amount." (AT&T Refresh the Record Comments, p. 2.) As ASCENT and other parties have already told the Commission, such a limitation would preclude carriers from recovering legitimate costs of doing business. In order to limit a carrier's ability to recover costs of doing business, the Commission's rules would require the initiation of a ratemaking proceeding to determine, among other things, the actual costs incurred by that carrier. In any event, should the Commission set a specific recovery rate, precluding carriers from also recovering their associated costs, equity also compels the Commission to allow carriers to inform their customers that the recoverable amount is a federally-mandated charge.

the assessment of universal service contributions on a flat-fee basis and/or the mandatory capping of pass-through amounts by the Commission.

Respectfully submitted,

**ASSOCIATION OF COMMUNICATIONS
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September 5, 2001

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